

Faceless Assessment - A Paradigm Shift in Income Tax Assessments within India

Faceless Assessment Scheme, 2019 is a huge step towards fortifying trust among taxpayers and ensure complete transparency in Government operations. It eliminates the need for the assessee to visit or meet any income tax officials for any assessment related proceedings. Furthermore, the use of advanced technology, abolition of jurisdictional assessment, multiple level reviews and introduction of the NeAC for centralised communication will better the quality of assessments and lower the number of disputes and litigations. While faceless appeals will come into effect from 25th September, 2020, assessment as per the provisions of this Scheme has already begun. Read on to know more...



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Inaugurating the *Rajaswa Gyan Sangam*, the annual conference of the Chief Commissioners of Income-tax, Service-tax, Custom and Excise on 01st September 2017, Shri Narendra Modi, Prime Minister of India, presented to introduce for the first time, a system of faceless assessment for direct taxation to further his vision of a truly 'Digital India' as well as increase transparency for the taxpayers and accountability from the government and its officers. Moreover, this was also aimed at eliminating undesirable practices carried out by the Income Tax officials. With

some assessment disputes and litigations as old as 15 years pending with the Income Tax Department, this scheme can prove to be vital reform the country's tax system needs. The Honourable Prime Minister further solidified the faceless assessment by officially launching it when he addressed the nation on 13th August 2020, which will replace the existing e-Assessment Scheme, 2019. This new scheme is launched with the idea of "Transparent Taxation - Honouring the Honest", i.e. the platform will lay down this assessment mechanism to honour the



honest taxpayers by forging trust and greater transparency and efficiency in the functioning of the Income Tax Department.

What is Faceless Assessment?

Faceless Assessment, in generic terms, means assessing taxpayers in a way where they do not have to visit the Income Tax Department and do not come face-to-face with any Income Tax officials.

It aims to eliminate human interface in the direct taxation functioning of the country and introduce widespread adoption and usage of data analytics and artificial intelligence (AI).

However, the most striking feature of the faceless assessment scheme is the introduction of team-based assessment with dynamic jurisdiction which replaces the conventional territorial or jurisdictional based assessment.

Legal Framework

Having briefly comprehended what faceless assessment is, it is significant to know and understand the underlying laws regulating it.

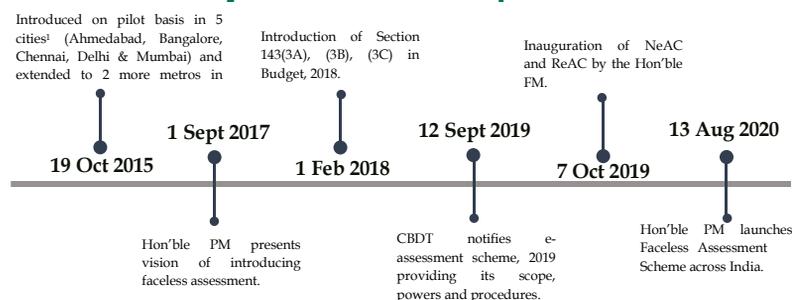


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This innovative legislation was introduced in the Finance Act, 2018 as Sections 143(3A), 143(3B) and 143(3C) under the Income-tax Act, 1961:

- Section 143(3A)** provides that the Central Government may make a scheme for the purpose of making assessment [under section 143(3)] so as to impart greater efficiency, transparency and accountability by eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible; optimising utilisation of the resources through economies of scale and functional specialization and introducing a team-based assessment with dynamic jurisdiction. (Assessment under section 144 has also been included by the Finance Act, 2020)
 - Section 143(3B)** provides that the Central Government may for giving effect to the Scheme, direct that any provisions of the Income-tax Act relating to the assessment of total income shall not apply
- or shall apply with such exceptions, modifications and adaption as may be specified in the notification before 31.03.2020. (This date has been further amended/extended to 31.03.2022 by the Finance Act, 2020)
- Section 143(3C)** provides that any notification issued under section 143(3A) and 143(3B) shall be laid before each house of the Parliament as soon as the notification is issued.
 - In exercise of the powers conferred by sub-section (3A) of section 143 of the Income-tax Act, 1961, the Central Government amended the E-assessment Scheme, 2019 [S.O 3264 (E) dated 12.09.2019] to call it the Faceless Assessment Scheme, 2019 (hereinafter referred to as 'the Scheme') published vide notification of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT), vide number S.O 2745 (E) dated 13th August 2020.

Time-line of major events in the implementation



Important Elements of the Faceless Assessment Eco-system

National e-Assessment Centre (NeAC)

The NeAC is the back-bone of the faceless assessment mechanism and it has widespread functions which are aimed at ensuring accuracy, efficiency and seamless working at back-end of the Income Tax department. The NeAC is located at Delhi and headed by the Principal Chief Commissioner of Income Tax (Pr. CCIT).

Primary functions of the NeAC

- Specify various formats, processes and procedures in relation to various aspects of the faceless assessment after approval by the CBDT.
- Assign cases to the Assessment units (AU) by making use of data analytics and AI.
- Facilitate communication among various units of the ReAC.
- Ensure furnishing of notices/ communication to all assesses in a timely and electronic manner.
- Select draft assessment orders (DAO) and allocate them to the review unit via automated allocation system.
- Assist in finalisation and electronic dispatch of assessment orders.

Regional e-Assessment Centres (ReAC)

The ReAC is established to assist the NeAC in smooth

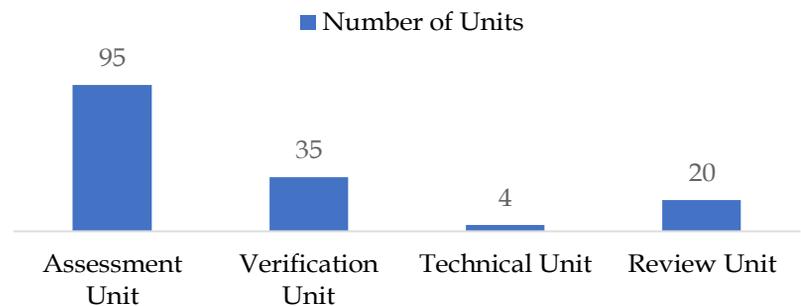
functioning of the assessment procedures.

It will function with the support of 4 independent units, whose functions are described as follows:

1. **Assessment Unit (AU)** – Accept cases assigned to it by the NeAC, identify issues therein, seek information for resolving the issues and analyse materials to frame draft assessment orders.
2. **Verification Unit (VU)** – It has widespread functions for conducting enquiries:
 - Conduct e-verification under section 133C;
 - Examination of books of account, examination
3. **Technical Unit (TU)** – Acts as the knowledge repository of the faceless eco-system by affording advice on legal, accounting, forensic, information technology, valuation, transfer pricing, Data Analytics and so on.
4. **Review Unit (RU)** – Primarily involved in review of draft assessment orders and verify details pertaining to material evidence brought on record, questions of facts and law, application of judicial decisions, arithmetic correctness and the like.

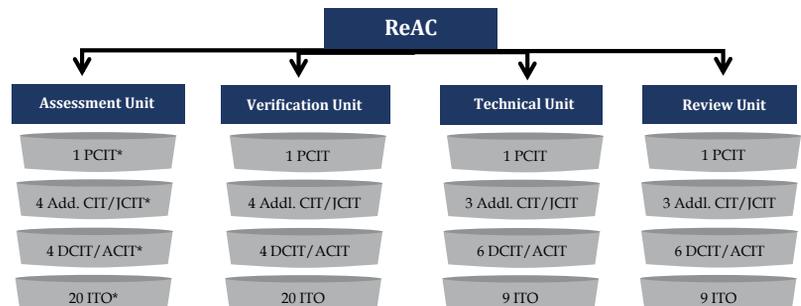
of witnesses and recording of statement via electronic modes;

Units of ReAC²



Constitution of ReACs

The ReAC will be headed by the Chief Commissioner of Income Tax (CCIT), with further delegation of each unit to other ranks of the Income Tax authorities, which are diagrammatically explained below³.



Location of ReACs

There will be 30 ReACs set-up across 20 cities⁴ throughout the country, with 8 already in existence by virtue of the e-Assessment Scheme, 2019 located at Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Pune, Bangalore and Hyderabad⁵.

Overview of Assessment Procedures

Apart from a structural change as deliberated above, there is also a fundamental change in the way assessments will be carried out in the course of this Scheme. For instance, an assessee who resides in Mumbai, his/ her Income Tax return may be assigned by the NeAC to any AU of say, Gujarat and the draft assessment order (DAO) may be reviewed by an officer in say, West Bengal. However, the assessment order will not mention these details. It will only make mention of the NeAC.

All assessment orders shall be passed by the NeAC only and all communication among the units of the ReACs shall be facilitated through the NeAC exclusively by electronic mode by affixing a Digital Signature Certificate (DSC).

Let us now understand the procedure of assessment under this Scheme.

- Based on the income tax returns filed, the NeAC allocates cases electronically to the AUs using data analytics, AI and risk parameters pre-defined in the system.
- Based on the facts available, AU may make a request to the NeAC for
 - obtaining further information, documents or evidence from the assessee or any other person;
 - Conducting enquiry by VU; or
 - Seeking technical assistance from the TU.
- Where such request has been made by the AU, the NeAC shall issue appropriate notice or requisition to the assessee or any other person for obtaining requisite information.
- The assessee or any other person, shall file his response (through his registered income tax e-filing account) to the above notice within the stipulated time.
- The assessee may seek a personal hearing to make oral submissions in case of proposed modification of income in the DAO (Draft assessment order) which shall be conducted exclusively through video conferencing or video telephony as per procedure laid down by the CBDT.
- In case assistance of VU or TU had been taken, the NeAC shall send the verification/ technical report received from the VU or TU, to the concerned AU.
- In all cases, the AU, after taking into account relevant material available on the record and replies or further information received, shall prepare a DAO either accepting the return or modifying the income or sum payable.
- The DAO shall be examined by the NeAC in accordance with the Risk Management Strategy (RMS) laid down by the CBDT. The NeAC may assign the case to any RU of any ReAC through an automated allocation system.
 - a) If no assignment is made to the RU and
 - i. **No modification in DAO is made to the income or sum payable** - Final order based on the DAO shall be served to the assessee along with demand notice specifying the sum payable or refundable, as the case maybe and penalty proceedings, if any; or
 - ii. **Modification in DAO to income or sum payable is proposed** – AU shall communicate modifications to the NeAC; then a show cause notice (SCN) shall be issued along with the DAO and NeAC shall provide an opportunity to the assessee to show cause as to why the assessment should not be completed as per the DAO.

- b) If assignment has been made to any RU and:
- i) **RU concurs with the DAO** – RU shall communicate concurrence to NeAC. Final order based on the DAO shall be served to the assessee along with demand notice specifying the sum payable or refundable, as the case maybe and penalty proceedings, if any; or
 - ii) **RU proposes modifications in the DAO** – AU shall communicate modifications to the NeAC. Thereafter, NeAC shall allocate the case to a fresh AU through automated allocation system. This new AU shall draft the final DAO after considering the proposed modifications and send it back to the NeAC. The NeAC shall then follow the procedure described in (i) or (ii) of sub-clause (a) above.
- In case no reply is received from the assessee, the NeAC shall finalise the assessment based on the DAO and serve the final assessment order along with demand notice specifying the sum payable or refundable, as the case maybe and penalty proceedings, if any.
 - The NeAC shall, after completion of assessment, transfer all the electronic records of the case including penalty proceedings to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

Scope of the Scheme

The scheme covers the following cases and aspects under its ambit:

- 1) All existing cases where the notice under section 143(2) was issued by the NeAC under the erstwhile e-Assessment Scheme, 2019.
- 2) All other cases where:
 - a) Returns of income are filed and selected



The NeAC shall, after completion of assessment, transfer all the electronic records of the case including penalty proceedings to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

for scrutiny under the extant guidelines by issuing notices under section 143(2);

- b) Notices under section 142(1) have been issued for filing the returns and no return thereon has been furnished;
- c) The assessee has not furnished return of income under section 148 and a notice under section 142(1) calling for information has been issued.

Conclusion

India has taken a giant leap in moving towards a digital nation by launching this Scheme. Compliances will be easier, assessments will be faster and disputes will be lower. In the last few years, tax scrutiny cases have reduced from 0.71% earlier to now 0.25%⁶. This is a reflection of the trust that the government is placing on the taxpayers. Time only will tell the effectiveness and efficiency of the Scheme but as honest taxpayers, it is definitely something to look forward to. ■■■

